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PAYROLL CURRENTLY is in its 30th year of publication in 2022. This month marks a milestone as the first issue was mailed to subscribers in October 1992. The APA extends its gratitude to its members over the years for turning to PAYROLL CURRENTLY as their respected publication for payroll compliance news. We hope members benefit from reading each issue of this monthly electronic newsletter and take advantage of all **member benefits**.

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ACA Employer Shared Responsibility Payments Adjusted for 2023

The IRS has updated the employer shared responsibility (ESR) payment amounts for 2023 under the Affordable Care Act (ACA) [IRS, *Questions and Answers on Employer Shared Responsibility Provisions Under the Affordable Care Act*, 8-16-22]. The ESR payment amounts were set at \$2,000 and \$3,000 under the law but are adjusted annually for inflation. Question 55 lists the ESR payment amounts for 2023 as \$2,880 and \$4,320 (up from \$2,750 and \$4,120 for 2022).

Background

Under the ACA, applicable large employers (ALEs) that do not offer minimum essential coverage (MEC) or offer it to fewer than 95% of their full-time employees (and their dependents) owe an ESR payment equal to the number of

full-time employees (not full-time equivalents) the employer employed for the year (minus up to 30) multiplied by \$2,880 for 2023, as adjusted annually for inflation, as long as at least one full-time employee gets health insurance through an Exchange and receives the premium tax credit.

If ALEs offer MEC to at least 95% of their full-time employees (and their dependents), but at least one employee still obtains insurance through an Exchange and gets a premium tax credit, the employers' payment is computed separately for each month. The amount of the payment for the month equals the number of full-time employees who receive a premium tax credit for that month multiplied by 1/12 of \$4,320 for 2023, as adjusted annually for inflation.

The amount of the payment for any calendar month is capped at the number of the full-time employees (not full-time equivalents) for the month (minus up to 30) multiplied by 1/12 of \$2,880 for 2023. The cap

ensures that the payment for employers that offer coverage to 95% of their employees can never exceed the payment that an employer would owe if it did not offer coverage. ■

IRS Issues Federal ‘High-Low’ Per Diem Rates Effective October 1

The IRS has released the optional “high-low” per diem rates for lodging expenses and meals and incidental expenses (M&IE) that may be used instead of the General Services Administration’s (GSA’s) “actual” per diem rates for travel to locations within the continental U.S. (CONUS; the GSA rates are discussed in *PAYROLL CURRENTLY, Issue 9, Vol. 30*), the special federal M&IE per diem rates applicable to the transportation industry, and the per diem rate for incidental expenses (see *The Payroll Source*®, §3.3-5). The updated high-low rates apply for travel undertaken on or after October 1, 2022 (but see discussion of the transition rule that follows) [Notice 2022-44, 9-26-22].

Note: Rev. Proc. 2011-47 (2011-42 IRB 520) provides general rules for using a per diem rate to substantiate an

employee’s lodging expenses and M&IE, or M&IE only. Taxpayers using the rates and list of high-cost localities provided in Notice 2022-44 must comply with Rev. Proc. 2011-47.

High-low rates

The “high” rate for lodging expenses and M&IE increases to \$297 (from \$296) for travel to any high-cost locality, while the “low” rate increases to \$204 (from \$202) for travel to any other locality within CONUS. The rates for M&IE remain at \$74 for high-cost localities and \$64 for any other locality within CONUS.

High-cost localities. The following high-cost localities have a federal per diem rate of \$250 or more for all of the calendar year or the portion of the calendar year specified.

| Key City | County or Other Defined Location |
|--|---|
| Alabama | |
| Gulf Shores (6/1-7/31) | Baldwin |
| Arizona | |
| Phoenix/Scottsdale (2/1-3/31) | Maricopa |
| Sedona | City limits of Sedona |
| California | |
| Los Angeles (10/1-10/31, 1/1-9/30) | Los Angeles, Orange, Ventura, Edwards AFB less Santa Monica |
| Mill Valley/San Rafael/Novato (10/1-10/31, 6/1-9/30) | Marin |
| Monterey (6/1-8/31) | Monterey |
| Napa | Napa |
| Oakland | Alameda |
| San Diego (2/1-8/31) | San Diego |
| San Francisco | San Francisco |
| San Luis Obispo (6/1-8/31) | San Luis Obispo |
| San Mateo/Foster City/Belmont | San Mateo |
| Santa Barbara | Santa Barbara |
| Santa Monica | City limits of Santa Monica |
| Sunnyvale/Palo Alto/San Jose | Santa Clara |
| Colorado | |
| Aspen (10/1-3/31, 6/1-9/30) | Pitkin |
| Denver/Aurora (10/1-10/31, 4/1-9/30) | Denver, Adams, Arapahoe, and Jefferson |
| Durango (6/1-9/30) | La Plata |
| Grand Lake (12/1-3/31) | Grand |
| Silverthorne/Breckenridge (10/1-3/31, 6/1-9/30) | Summit |
| Steamboat Springs (12/1-3/31) | Routt |
| Telluride | San Miguel |
| Vail | Eagle |

| Key City | County or Other Defined Location |
|--|---|
| Delaware | |
| Lewes (7/1-8/31) | Sussex |
| District of Columbia | |
| Washington, D.C. | Washington, D.C. (also the cities of Alexandria, Falls Church, and Fairfax and the counties of Arlington and Fairfax in Virginia; and the counties of Montgomery and Prince George's in Maryland) |
| Florida | |
| Boca Raton/Delray Beach/Jupiter (12/1-4/30) | Palm Beach and Hendry |
| Bradenton (2/1-3/31) | Manatee |
| Cocoa Beach (2/1-3/31) | Brevard |
| Fort Lauderdale (10/1-4/30) | Broward |
| Fort Meyers (2/1-3/31) | Lee |
| Fort Walton Beach/De Funiak Springs (10/1-10/31, 3/1-9/30) | Okaloosa and Walton |
| Gulf Breeze (6/1-7/31) | Santa Rosa |
| Key West | Monroe |
| Miami (12/1-3/31) | Miami-Dade |
| Naples (12/1-4/30) | Collier |
| Panama City (6/1-7/31) | Bay |
| Pensacola (6/1-7/31) | Escambia |
| Punta Gorda (2/1-3/31) | Charlotte |
| Sarasota (2/1-4/30) | Sarasota |
| Sebring (2/1-3/31) | Highlands |
| Stuart (2/1-3/31) | Martin |
| Vero Beach (12/1-4/30) | Indian River |
| Georgia | |
| Jekyll Island/Brunswick (3/1-7/31) | Glynn |
| Idaho | |
| Sun Valley/Ketchum (12/1-3/31, 6/1-9/30) | Blaine and Elmore |
| Illinois | |
| Chicago (10/1-11/30, 4/1-9/30) | Cook and Lake |
| Maine | |
| Bar Harbor/Rockport (10/1-10/31, 7/1-9/30) | Hancock and Knox |
| Kennebunk/Kittery/Sanford (7/1-8/31) | York |
| Portland (7/1-8/31) | Cumberland and Sagadahoc |
| Maryland | |
| Ocean City (7/1-8/31) | Worcester |
| Washington, D.C. Metro Area | Montgomery and Prince George's |
| Massachusetts | |
| Boston/Cambridge | Suffolk, City of Cambridge |
| Falmouth (5/1-8/31) | City limits of Falmouth |
| Hyannis (7/1-8/31) | Barnstable less the city of Falmouth |
| Martha's Vineyard | Dukes |
| Nantucket | Nantucket |

| Key City | County or Other Defined Location |
|---|---|
| Michigan | |
| Mackinac Island (7/1-8/31) | Mackinac |
| Petoskey (7/1-8/31) | Emmet |
| Traverse City (7/1-8/31) | Grand Traverse |
| Minnesota | |
| Duluth (10/1-10/31, 6/1-9/30) | St. Louis |
| Montana | |
| Big Sky/West Yellowstone/Gardiner (6/1-9/30) | Gallatin and Park |
| Kalispell/Whitefish (7/1-8/31) | Flathead |
| New Jersey | |
| Toms River (7/1-8/31) | Ocean |
| New Mexico | |
| Carlsbad | Eddy |
| New York | |
| Glens Falls (7/1-8/31) | Warren |
| Lake Placid (7/1-8/31) | Essex |
| New York City (10/1-12/31, 3/1-9/30) | Bronx, Kings (Brooklyn), New York (Manhattan), Queens, and Richmond (Staten Island) |
| North Carolina | |
| Kill Devil Hills (4/1-9/30) | Dare |
| Oregon | |
| Lincoln City (7/1-8/31) | Lincoln |
| Portland (10/1-10/31, 6/1-9/30) | Multnomah |
| Seaside (7/1-8/31) | Clatsop |
| Pennsylvania | |
| Hershey (6/1-8/31) | Hershey |
| Philadelphia (10/1-11/30, 3/1-6/30, 9/1-9/30) | Philadelphia |
| Rhode Island | |
| Jamestown/Middletown/Newport (10/1-10/31, 6/1-9/30) | Newport |
| South Carolina | |
| Charleston | Charleston, Berkeley, and Dorchester |
| Hilton Head (6/1-8/31) | Beaufort |
| Myrtle Beach (6/1-8/31) | Horry |
| Tennessee | |
| Nashville | Davidson |
| Utah | |
| Moab (10/1-10/31, 3/1-9/30) | Grand |
| Park City | Summit |
| Vermont | |
| Manchester | Bennington |
| Virginia | |
| Virginia Beach (6/1-8/31) | City of Virginia Beach |
| Wallops Island (7/1-8/31) | Accomack |

| Key City | County or Other Defined Location |
|---------------------------------------|--|
| Washington, D.C. Metro Area | Cities of Alexandria, Fairfax, and Falls Church; and the counties of Arlington and Fairfax |
| Washington | |
| Port Angeles/Port Townsend (7/1-8/31) | Clallam and Jefferson |
| Seattle | King |
| Vancouver (10/1-10/31, 6/1-9/30) | Clark, Cowlitz, and Skamania |
| Wyoming | |
| Cody (6/1-9/30) | Park |
| Jackson/Pinedale | Teton and Sublette |

Added. These localities have been added to the list of high-cost localities: Gulf Shores, Ala.; Phoenix/Scottsdale, Ariz.; San Luis Obispo, Calif.; Durango, Colo.; Steamboat Springs, Colo.; Bradenton, Fla.; Cocoa Beach, Fla.; Gulf Breeze, Fla.; Panama City, Fla.; Pensacola, Fla.; Punta Gorda, Fla.; Sarasota, Fla.; Sebring, Fla.; Stuart, Fla.; Sun Valley/Ketchum, Idaho; Portland, Maine; Mackinac Island, Mich.; Duluth, Minn.; Kalispell/Whitefish, Mont.; Toms River, N.J.; Glens Falls, N.Y.; Kill Devil Hills, N.C.; Lincoln City, Ore.; Myrtle Beach, S.C.; Moab, Utah; Manchester, Vt.; and Port Angeles/Port Townsend, Wash.

Changed. A portion of the year for which the following are high-cost localities has changed: Sedona, Ariz.; Napa, Calif.; San Diego, Calif.; Silverthorne/Breckenridge, Colo.; Fort Lauderdale, Fla.; Fort Walton Beach/De Funiak Springs, Fla.; Key West, Fla.; Bar Harbor/Rockport, Maine; Falmouth, Mass.; Martha's Vineyard, Mass.; Nantucket, Mass.; Jamestown/Middleton/Newport, R.I.; Charleston, S.C.; Park City, Utah; and Jackson/Pinedale, Wyo.

Removed. The following locality has been removed from the list of high-cost localities: Crested Butte/Gunnison, Colo.

Transportation industry rates

The federal M&IE rates for the transportation industry remain at \$69 for any locality of travel within CONUS and \$74 for any locality of travel outside the continental U.S. (OCONUS). These special M&IE rates simplify recordkeeping for employers whose employees routinely travel overnight

to many different locations during a single payroll period. To qualify, the transportation must directly involve moving people or goods by airplane, barge, bus, ship, train, or truck, and must regularly require travel away from home on trips among localities with differing M&IE rates.

Incidental expenses

Instead of using actual expenses in computing the amount allowable as a deduction for ordinary and necessary incidental expenses paid or incurred for travel away from home, an employee or self-employed individual may use an amount computed at the rate of \$5 (unchanged) per day for each calendar day (or partial day) he or she is away from home. This amount will be deemed substantiated provided the employee or self-employed individual substantiates the elements of time, place, and business purpose of the travel for that day (or partial day).

Regulations issued by the GSA define incidental expenses under the Federal Travel Regulations to include only fees and tips given to porters, baggage carriers, hotel staff, and staff on ships. Transportation between places of lodging or business and places where meals are taken, and the mailing cost of filing travel vouchers and paying employer-sponsored charge card billings, are not included in incidental expenses (77 F.R. 64430, 10-22-12). Accordingly, taxpayers using per diem rates may separately deduct or be reimbursed for transportation and mailing expenses. ■